

DOCKET SECTION

BEFORE THE
POSTAL RATE COMMISSION
WASHINGTON, D.C. 20268-0001

RECEIVED
Oct 10 3 13 PM '97

POSTAL RATE COMMISSION
OFFICE OF THE SECRETARY

Postal Rate and Fee Changes, 1997)

Docket No. R97-1

OFFICE OF THE CONSUMER ADVOCATE
MOTION TO COMPEL ANSWERS TO INTERROGATORIES
OCA/USPS-71-73, 74(a) and (b), 75(a) and (b), 76-78, 84, 85, 86(i), and
OCA/USPS-T5-42
October 10, 1997

The Office of the Consumer Advocate ("OCA") files this Motion to Compel in response to two Objections of the United States Postal Service. See Objection of United States Postal Service to Office of the Consumer Advocate Interrogatories OCA/USPS-71-73, 74(a) and (b), 75(a) and (b), and 76-78, filed September 26, 1997 ("Objection 1"); and, Objection of United States Postal Service to Office of the Consumer Advocate Interrogatories OCA/USPS-T5-42, OCA/USPS-84-85, and Partial Objection to OCA/USPS-86(i) ("Objection 2"). The interrogatories at issue are set forth in the attached appendix.

Most of the objected-to interrogatories essentially ask for road maps designed to enable OCA to perform calculations under an assumption that mail processing costs are 100 percent variable, i.e., using the methodology followed in prior cases. The Postal Service argues as to OCA/USPS-71-73, 74(a) and (b), 75(a) and (b), and 76-77, *inter alia*, that these "road map" interrogatories constitute an abuse of the discovery process. It should not have to supply this information, we are told, because the Postal Service "did not assume 100

percent variability of mail processing labor costs" and instructions on how to "undo" all of this is basically irrelevant to the Postal Service's proposals."¹ The Postal Service asserts that "[i]n most instances, the OCA should be able to trace through lines, columns and rows of workpapers and library references that would have to be changed if the 100 percent variability assumption is made."² Further, the Postal Service opines that "if every time a change in costing methodology is made, everyone needs to be given a detailed 'road map' on how to do things the 'old way', then ratemaking proceedings are sure to bog down endlessly."³

It accompanies its argument by asserting that producing the information will be burdensome. As to OCA/USPS-71-73, 74(a) and (b), 75(a) and (b) and 76, "it could take a total of several full weeks for it to provide the 'road map' that the OCA wants."⁴

Interrogatories OCA/USPS-77-78 request specific guidance and information concerning the Postal Service's Rule 54(a)(1) alternate costing presentation. As to these, the Postal Service incorporates by reference the arguments it made in a series of objections filed as to Major Mailer Association interrogatories.⁵ It does not provide a specific discussion of how long it would take to comply with these interrogatories. As to OCA/USPS-T5-42, the Postal Service states without elaboration that its effort "could take months."⁶

¹ Objection 1, at 2.

² Id. at 3.

³ Id. at 2.

⁴ Id. at 3.

⁵ Id. at 4.

⁶ Id.

With regard to OCA/USPS-84, 85 and 86(i), OCA requested certain CAG-related information, and in OCA/USPS-86(i) made the following request:

Please confirm that cost or expense data is reported by finance number and that the finance number can be associated with a CAG. If you do not confirm, please explain. If you confirm, please provide the cost/expense figures in Appendix A of LR-H-1 by CAG.

The Postal Service argues that OCA/USPS-84, 85 and 86(i) ask it to create special new reports.⁷ The Postal Service also questions the value of the OCA request.⁸ It points out that Postal Service accrued costs are not reported by CAG, but rather are compiled by finance number, line number, etc.⁹ We agree with the Postal Service's characterization that it simply has a different view from OCA as to the appropriate way to report accrued costs.¹⁰ We would note that the Postal Service admits that "production of the reports, standing alone," would not be unduly burdensome;¹¹ rather, the problem is that "the additional time required to respond comes at the end of the fiscal year, which is the heaviest work period of the year for functions associated with Postal Service accounting."¹²

⁷ Objection 2, at 4.

⁸ Id. at 5.

⁹ Id. at 4.

¹⁰ Id. at 4-5.

¹¹ Id. at 6.

¹² Id. at 6.

ARGUMENT IN SUPPORT OF MOTION TO COMPEL

A. ROAD MAP AND RULE 54(a)(1) ISSUES

As to the “road map” interrogatories, it is apparent that the Postal Service has chosen in this proceeding to advance a “fundamental change”¹³ in the way that both it and the Commission have traditionally attributed mail processing costs. Thus, Postal Service witness Bradley testimony contradicts past Postal Service assumptions that mail processing labor costs are proportional to volume.¹⁴ A number of parties in addition to OCA, and the Presiding Officer himself, have had questions about the analysis. See, e.g., POIR #3, questions 29-31. Key assumptions in his analysis remain to be verified, e.g., his application of the average or system variability from MODS offices to the overall mail processing costs for non-MODS offices.¹⁵ A host of questions have been directed by participants to the Postal Service about this new methodology from parties such as the Newspaper Association of America, the Direct Marketing Association, Inc., United Parcel Service, Magazine Publishers of America, etc.

In short, the Postal Service’s proposed new costing methodology may or may not be adopted – that is, after all, one of the purposes of requiring that such Postal Service proposals be scrutinized through a public hearing process. If it is not adopted fully, information of the type sought in these interrogatories will become valuable to many parties and to the Commission itself, not just the OCA.

¹³ Order No. 1197, at 8.

¹⁴ See generally direct testimony of Michael D. Bradley, USPS-T-14.

As to the Rule 54(a)(1) interrogatories, we would note that parties other than OCA have found a need for Postal Service assistance in fathoming the Postal Service Request. See, e.g., the general discussion in Order No. 1197.¹⁵

We believe Commission Order 1197, issued October 1, 1997, is on point as to both the "roadmap" and Rule 54(a)(1) issues raised. Order 1197 states, in relevant parts:

Where the Postal Service simultaneously proposes changes in attribution principles and changes in rates, it has the duty not only to provide notice of the impact of its rate proposals separately from the impact of its proposed changes in attribution principles, it has the parallel duty to respond to discovery and provide evidence of that impact in the context of an Administrative Procedures Act hearing.¹⁷

* * *

The effect of the Postal Service's proposed changes in mail processing attribution methods on the cost avoidance calculations that underlie its proposed rate category discounts is information that is obviously relevant to evaluating both its proposed attribution methods and its proposed discounts. Indeed, it would be difficult to properly evaluate the Postal Service's proposed discounts without it.

* * *

MMA's interrogatories only ask the Postal Service to perform the essentially mechanical exercise of quantifying the impact of its rate and classification proposals using established attribution principles.¹⁸

The OCA through most of these interrogatories seeks road maps and Rule 54(a)(1) assistance that will enable OCA and *all* parties better to analyze

¹⁵ See OCA/USPS-T14-19, NAA/USPS-T14-16, and responses thereto.

¹⁶ Order Accepting Certification and Granting Major Mailers Association Motion to Compel, issued October 1, 1997.

¹⁷ Order No. 1197, at 5.

the effects of the Postal Service's proposals under new and traditional methodologies. We believe it is part of the Postal Service's legal burden of going forward with the evidence to provide such directions; as such, its arguments concerning the burden of compliance with discovery requests are not highly persuasive. Such a position is implicit in the Commission's statement in Order 1197 that even the maximum work time estimate given by the Postal Service would not be excessive "[g]iven the fundamental importance of knowing what the Postal Service's proposed changes in mail processing attribution would have"¹⁹ In short, the more important the data sought through discovery, the less meaningful a "burden" argument becomes.²⁰

Further, although the "old" way is not part of the Postal Service's proposal, comparisons between results that would be obtained using new and old methodologies can be enlightening. There are countless examples from everyday life where the human thought process is aided by such "old" versus "new" comparisons. Just one example will illustrate the point. Congress with some frequency has considered changes in the nation's tax code. Integral to every debate are "old" versus "new" comparisons, e.g., comparing how families with certain income levels will fare under each plan; or, assuming current economic conditions, comparing how tax revenues will change.

¹⁸ Id. at 6.

¹⁹ Id. at 8-9.

²⁰ Compare Fed. R. Civ. Proc. 26(g)(2)(C) which states that an attorney must certify that a discovery request, response or objection is not unreasonable or unduly burdensome or expensive, "*given the needs of the case, the discovery already had in the case, the amount in controversy, and the importance of the issues at stake in the litigation.*" [emphasis added]

If the Postal Service's burden argument is to be considered, we would also note that its descriptions of its burden are generalized. We do not know why it would take "several weeks" or "several months" to produce the information. We are skeptical of these assertions and believe the burden is not as high as described. It may be that a phrase such as "several weeks" really means, e.g., 120 staff hours. However, if multiple persons can work on a task, that does not mean it will take "several weeks" to produce the report. A clearly defined assertion of burden would state not only the tasks that have to be performed, but also the number of total hours it will take to accomplish the tasks, and the number of staff who will work on the task. It is hard to believe there is only one person who can work on each task within the Postal Service.

Moreover, Order No. 1197 already seems to require the Postal Service to perform work which is relevant to our requests. For example, ordering paragraph No. 1 granted the Motion to Compel with regards to MMA/USPS-T25-1(b) and 1(c).²¹ This seems to require the Postal Service to update LR MCR-10 and LR-H-77.²² Thus, the Postal Service burden as to the OCA requests is incremental.

B. CAG-RELATED ISSUES

Interrogatories OCA/USPS-84, 85, and 86(i) present different issues. Here it is OCA (and, as discussed below, perhaps the Commission) that think

²¹ Order No. 1197, at 12.

²² *Id.* at 8.

there is a better way of doing things, while the Postal Service essentially takes the position that its accrued cost methodology is *the* way to do things.

The Postal Service asserts that the CAG-related data OCA is asking for will be of questionable value.²³ However, the weight to be accorded evidence or the admissibility of evidence is not the issue during discovery.²⁴ Such issues are trial issues. It may be that the information OCA receives is not perfect (e.g., the data source is questionable), but “perfect” information is rare in proceedings of this sort. The information OCA seeks is legitimately sought, being related to development of OCA’s direct case in developing cost estimates and allocations concerning post office boxes. Indeed, the Commission has expressed its interest in this area in the past.

In Docket No. MC96-3, the Postal Service presented a new pricing approach with regard to post office boxes.²⁵ The OCA presented an alternative approach, in the belief that there was a better way to structure post office box fee groups. OCA took the position that post office boxes should be grouped by CAGs rather than by delivery group.²⁶ The Commission made the following observations:²⁷

The OCA presents an interesting argument that post office boxes may be better grouped by CAG level rather than delivery group. This option should be considered. However,

²³ Objection 2, at 5.

²⁴ See Wright, Miller & Marcus, 8 Federal Practice and Procedure, §2008.

²⁵ Docket No. MC96-3, Opinion and Recommended Decision, issued April 2, 1997, at 47.

²⁶ *Id.* at 60.

²⁷ *Id.* at 63.

the Postal Service has presented plausible difficulties involved in implementing such a change. [cite omitted]

Data provided on this record are insufficient to analyze the impact of such a grouping. * * * While it is not appropriate to act on the OCA's suggestion at this time, the Commission *encourages the Postal Service to explore alternative post office box groupings in the future.*

And, in analyzing Group D fees, the Commission noted:²⁸

The Postal Service is expected to submit an omnibus rate case in the near future, which will provide another opportunity to increase these fees. Prior to that Request, the Service can review its method of allocating costs attributed to post office boxes and its post office box market research. Such a review will resolve outstanding questions and concerns about the reliability of the current method.

OCA is endeavoring here to be responsive to the Commission's stated concerns. It is expected to make a proposal that will address deficiencies in the current methodology. Obtaining the information it seeks will facilitate its undertaking.

The Postal Service states providing the information would be burdensome. It acknowledges that the requested material could be provided fairly easily, but the OCA request just comes at a bad time.²⁹

As noted above, burden arguments must be analyzed in context. For one thing, burdens are relative. It has 40 visible witnesses in this case, and a large headquarters staff it uses in responding to discovery inquiries. In contrast, it is

²⁸ Id. at 67.

²⁹ Objection 2, at 6. See especially the first full paragraph on that page. The Postal Service also objects to preparing "special new reports." Objection 2, at 4.

our understanding that most of the parties in this proceeding have but a handful of persons at their disposal. This is certainly true of the OCA – the information being sought will be analyzed by two persons at most.

In examining burden arguments generally, the timing of a request can be relevant. However, when the Postal Service files a general rate case, it should know that *discovery requests will be ample, and sometimes time-consuming to respond to*. The Postal Service also controls the timing of its request. It is aware of the statutory deadlines that control these proceedings, and its experienced counsel could easily have foreseen that accounting-type requests would be made on or near the end of the fiscal year. Life is not easy under statutory deadlines – all parties must make sacrifices.

The Postal Service's refusal to provide the CAG-related information sought is contrary to long-standing Commission policies favoring the provision of information to participants who require it to prepare their own cases-in-chief, particularly when the information in dispute is solely within the control of the Postal Service. *OCA cannot possibly generate the CAG breakdown sought in the disputed interrogatories; nor has the Postal Service alleged that OCA has*

Yet the interrogatory responses of the Postal service are peppered with all kinds of "special reports," i.e., special computations made at the request of parties.

that capability.³⁰

In addition, discovery should be favored when the issue is important to the litigation. As noted above, sometimes the importance of an issue simply requires that even a heavy burden be tolerated.

MOTION

OCA thus requests that the Postal Service be compelled to respond to the above-cited interrogatories.³¹

Respectfully submitted,

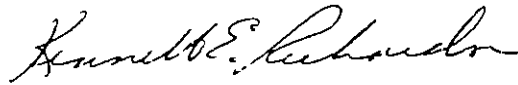

KENNETH E. RICHARDSON
Attorney

³⁰ The Postal Service also states that the OCA's request intrudes on the Postal Service authority to maintain and manage its books as it deems proper. Objection 2, at 5. OCA is doing no such thing in asking that the Postal Service generate a report for use in this proceeding. The Postal Service can continue to manage its books exactly as it pleases.

³¹ To the extent the Postal Service plans to provide some of this information in response to other interrogatories, e.g., those subject to Order 1197, it would not be necessary to refile fully duplicative information herein.

CERTIFICATE OF SERVICE

I hereby certify that I have this date served the foregoing document upon all participants of record in this proceeding in accordance with section 12 of the rules of practice.

A handwritten signature in cursive script, appearing to read "Kenneth E. Richardson".

KENNETH E. RICHARDSON
Attorney

Washington, D.C. 20268-0001
October 10, 1997

APPENDIX

INTERROGATORIES AT ISSUE

OCA/USPS-T5-42. In response to OCA/USPS-T36-25.i., witness Moeller states that "significant changes in the costing methodology make a direct comparison of [the letter/flat differential between Docket No. MC95-1 and Docket No. R97-1] difficult." OCA is experiencing the same difficulty as the Postal Service's own witness. In order for OCA to make this determination itself, please provide the following information:

- a. For every cost component, list and describe all significant changes to cost attribution methodology in this proceeding.
 - i. Provide a citation for each change listed to: testimony of a Postal Service witness (by page and line), workpaper (by worksheet, page, column, and row), and/or Library Reference (by page and line), as appropriate. If the change has not been documented in any information already on file with the Commission, then provide such documents and give all citations.
 - ii. For each change listed in answer to part a., state whether it has the effect of causing level of attribution for the component to increase, decrease, or remain the same (choose one).
 - iii. If you are unable to provide the answers sought by this subpart, then please redirect the questions (or portions of questions) to witnesses who can provide answers.
- b. For every cost component, list and describe all significant changes to the distribution key(s) used in this proceeding.
 - i. For each, state whether the distribution key change involves substitution of an entirely new distribution key or a significant alteration to an existing key.
 - ii. Provide a citation for each change listed to: testimony of a Postal Service witness (by page and line), workpaper (by worksheet, page, column, and row), and/or Library Reference (by page and line), as appropriate. If the change has not been documented in any information already on file with the Commission, then provide such documents and give all citations.
 - iii. For each change listed in answer to part b., give an additional listing of how each subclass of mail is affected, i.e., for each subclass indicate whether the new (or altered) distribution key causes the particular subclass' share of attributable costs to increase, decrease, or remain the same (choose one).
 - iv. For each effect listed in subpart b.iii., provide a citation to: testimony of a Postal Service witness (by page and line),

workpaper (by worksheet, page, column, and row), and/or Library Reference (by page and line), as appropriate. If the effect has not been documented in any information already on file with the Commission, then provide such documents and give all citations.

- v. If you are unable to provide the answers sought by this subpart, then please redirect the questions (or portions of questions) to witnesses who can provide answers.

OCA/USPS-71. Please refer to the response to MMA/USPS-T32-37b. This response lists the steps necessary to compute the test year mail processing unit cost for bulk metered First-Class single-piece letters when mail processing costs are assumed to be 100 percent variable. Please provide an analogous list of necessary steps for each rate element for each of the rate design witnesses in this docket.

OCA/USPS-72. Please refer to the response to MMA/USPS-T32-37b. The first step to develop the requested unit cost is to "Calculate the Base Year Attributable costs (USPS-T5A and supporting workpapers) by rerunning the base year model using the 100% volume variability for mail processing labor costs."

- a. Please identify by page, row, and column number the portions of each supporting workpaper that would need to be modified.
- b. Please identify by page number and line number all needed changes to the "base year model" needed to calculate the base year attributable costs.
- c. Please identify by page, row, and column number the portions of USPS-T-5A that would need to be changed.

OCA/USPS-73. Please refer to the response to MMA/USPS-T32-37b. The second step to develop the requested unit cost is to "calculate the Test Year Attributable Costs (USPS-T-15E and supporting workpapers) by using the Base Year from step 1 (and possibly other modifications) and rerunning the rollforward model."

- a. Please identify by page, row, and column number the portions of each supporting workpaper that would need to be modified.
- b. Please identify by page number and line number all needed changes to the "rollforward model" needed to calculate the test year attributable costs.
- c. Please identify by page, row, and column number the portions of USPS-T-15E that would need to be changed.
- d. Please list the other possible modifications needed to produce the test year costs.

OCA/USPS-74. Please refer to the response to MMA/USPS-T32-37b. The third step to develop the requested unit cost is to "calculate piggyback factors as done in LR-H-77, using the Test Year from step 2."

- a. Please identify all modifications to LR-H-77 required to produce the piggyback factors.
- b. Please describe all changes needed to the LR-H-146 PIGGYF96 program to produce the piggyback factors needed under a 100 percent variability assumption.

OCA/USPS-75. Please refer to the response to MMA/USPS-T32-37b. The fourth step to develop the requested unit cost is to "Calculate the costs by shape (or benchmark costs) as requested by modifying LR-H-106 and LR-H-146, using inputs from all previous steps."

- a. Please identify the LR-H-146 SAS programs and specific lines of code that must be modified.
- b. Please identify by page number and line number all needed changes to LR-H-106.

OCA/USPS-76. Please refer to the response to MMA/USPS-T32-37b. This response lists the "primary steps" necessary to compute the test year mail processing unit cost for bulk metered First-Class single-piece letters when mail processing costs are assumed to be 100% variable. Please list all other steps in addition to the "primary steps."

OCA/USPS-77. Please refer to USPS library reference H-196.

- a. When USPS library reference H-196 was prepared, did the Postal Service use the Commission's cost programs from MC96-3? If so, please explain what programs were used. If not, please explain the origin and name of the programs used by the Postal Service.
- b. Did the Postal Service prepare any documentation on how to run the Commission's cost model programs? If not, please explain why not. If so, please provide a copy of all documentation prepared.
- c. Did the Postal Service conduct any programming analyses of the Commission's cost model programs? If so, please provide the results of all analyses conducted.
- d. Did the Postal Service encounter any logic errors in the Commission's cost model programs? If so, please explain what errors were encountered and how the Postal Service dealt with those errors.
- e. Please identify all problems encountered in replicating the Commission's costing methodology and explain how each problem was resolved.
- f. Did the Postal Service encounter any program results or output that were not internally consistent (for example, row and column totals not

accurate)? If so, please explain. If not, please indicate whether the Postal Service checked for consistency in program output.

OCA/USPS-78. The Notice of United States Postal Service Concerning Provision of Information Pursuant to Rule 54(a)(1), July 10, 1997 at 3, states:

In order to provide the cost model in PC SAS and C language, the Postal Service the Postal Service obtained PC SAS software, C language software, and a C language compiler. The Postal Service then performed several iterations, replicating the Commission's FY 1995 results from Docket No. MC96-3. These steps were required before the Postal Service could begin to develop the Commission's model to incorporate FY 1996 data. At present, the Postal Service is continuing to work on the interim and test year cost presentations which require that the model be modified to incorporate future developments not anticipated in the Commission's Docket No. MC96-3 model.

- a. Have copies of the Postal Service's PC SAS and C programs referenced above been provided by the Postal Service? If so, please identify the applicable library references. If not, please provide copies of all programs written as well as any supporting documentation.
- b. Please specifically identify each modification made to the Commission's model in order to incorporate the "future developments not anticipated in the Commission's Docket No. MC96-3 model."
- c. Please identify all problems encountered in preparing the interim and test year cost presentations and explain how the Postal Service dealt with each.

OCA/USPS-84. For FY 1996 for each CAG, please provide the average annual cost per employee for each craft listed in response to OCA/USPS-82 above.

OCA/USPS-85. For FY 1996 for each CAG, please provide the average annual cost per employee for each Cost Segment.

OCA/USPS-86.³² Please refer to the response to OCA/USPS-T5-11, where it states that "USPS personnel databases do not contain cross-reference information on CAG and salary levels." Please also refer to LR-H-1, Table A-1.

- a. Please confirm that the total annual salaries for postmasters are reported by finance number. If you do not confirm, please explain.

³² The entirety of Interrogatory OCA/USPS-86 is being provided for the purpose of readability. The Postal Service partial objection extends only to part (i).

- b. Please confirm that the total annual wages for clerks are reported by finance number. If you do not confirm, please explain.
- c. Please confirm that the total annual wages for mailhandlers are reported by finance number. If you do not confirm, please explain.
- d. Please confirm that the total annual wages and/or salaries for supervisors are reported by finance number. If you do not confirm, please explain.
- e. Please confirm that in addition to total annual salaries and wages, other compensation and benefit expenses for the employee crafts referred to in parts a. - d. above are reported by finance number. If you do not confirm, please explain.
- g. Please confirm that total annual salaries and wages and other compensation and benefit expenses for employee crafts other than those referred to in parts a. - d. above are reported by finance number. If you do not confirm, please explain.
- h. Please confirm that expense account data are reported by finance number. If you do not confirm, please explain.
- i. *Please confirm that cost or expense data is reported by finance number and that the finance number can be associated with a CAG. If you do not confirm, please explain. If you confirm, please provide the cost/expense figures in Appendix A of LR-H-1 by CAG.*